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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/688,694	10/17/2000	Christopher R Lefebvre	47004.000062	2049

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[REDACTED] EXAMINER

YOUNG, JOHN L

[REDACTED] ART UNIT

[REDACTED] PAPER NUMBER

3622

DATE MAILED: 04/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/688,694	LEFEBVRE ET AL. <i>My</i>
	Examiner John L Young	Art Unit 3622

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 12 February 2004.
- 2a) This action is FINAL.      2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 19-38 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 19-38 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

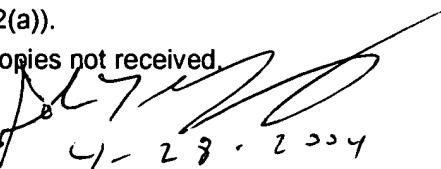
#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

  
JOHN LEONARD YOUNG, ESQ.  
PRIMARY EXAMINER

- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.

## THIRD NON-FINAL REJECTION

### DRAWINGS

1. This application has been filed with drawings that are considered informal; said drawings are acceptable for examination purposes. The review process for drawings that are included with applications on filing has been modified in view of the new requirement to publish applications at eighteen months after the filing date of applications, or any priority date claimed under 35 U.S.C. §§119, 120, 121, or 365.

### Antecedent Basis and Inferential Claiming

2. Rejections Withdrawn.

### CLAIM REJECTIONS – 35 U.S.C. §103(a)

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

3. Claims 19-38 are rejected under 35 U.S.C. §103(a) as being unpatentable over Deaton 6,611,811 (08/26/2003) [US f/d: 10/01/1999] (herein referred to as “Deaton”).

As per claim 19, Deaton (FIG. 66, FIG. 48A; FIG. 2A; FIG. 49; FIG. 50; and FIG. 51) shows computer graphical user interfaces. The Examiner interprets the above as showing graphical user interfaces.

Deaton (FIG. 26; and col. 3, ll. 51-55) shows: “retrieving account data associated with the customer in response to the request where the account data is displayed on a graphical user

interface. . . ”

Deaton (col. 7, ll. 25-35) discloses: “*a customer verification status response.*” In this case Examiner interprets the “*customer verification status response*” as showing “the customer’s current situation.”

Deaton (FIG. 27; and col. 3, ll. 51-59) shows: “identifying the customer as a customer segment where the customer segment identifies the customer’s past behavior. . . ”

Deaton (col. 57, ll. 55-65) discloses: “*It has been previously known to utilize marketing programs wherein users of a retail store’s services are targeted to attempt to induce the customer to make additional purchases from the retail store. . .*”

Deaton (col. 101, ll. 17-13) discloses: “*The present system can thus determine and distribute individualized, personalized, custom-tailored, inducement based on individualized consumption rate monitoring.*”

Deaton (col. 119, ll. 25-30) discloses: “*coupons may be tailored to induce the customer. . .*”

Deaton (The ABSTRACT; col. 3, ll. 51-59; col. 119; ll. 25-30) discloses: “*A method for customer promotion includes . . . processing each of a plurality of items in a customer order. The price of each item is accumulated after processing. A marginal discount associated with each item processed is generated. This marginal discount is generated in response to a signal that indicates the accumulated price exceeds a predetermined threshold. . . . A discount is applied to the customer order. . .*” Deaton (col. 158, Table 3-continued) discloses: “*Human readable interface. . .*”

The Examiner interprets the above disclosures as showing “A computer implemented method for providing one or more tailored incentives to a customer in response to a customer request . . . receiving a request from a customer . . . identifying the request as a request type, where the request

identifies the customer's current situation . . . identifying one or more incentives based on the request type . . . and one or more profitability factors associated with a provider of the one or more incentives and ordering the customer at least one of the identified one or more incentives for retaining the customer in response to the request. . . ." In this case, the "*customer order*" in Deaton is interpreted by the Examiner as being "a customer request. . . ." (i.e., a customer order request and the customer's current type and situation describe an order type in an ordering situation).

Deaton lacks an explicit recitation of "one or more profitability factors associated with a provider of the one or more incentives. . . ." even though Deaton ( col. 101, ll. 55-67; col. 102, ll. 1-67; col. 103, ll. 1-67; col. 104, ll. 1-67; col. 105, ll. 1-67; col. 106, ll. 1-67; col. 107, ll. 1-67; col. 108, ll. 1-67; col. 109, ll. 1-67; col. 110, ll. 1-67; col. 111, ll. 1-67; col. 112, ll. 1-20; The ABSTRACT; col. 3, ll. 51-59; col. 119; ll. 25-30; and the whole document) suggests same.

It would have been obvious to a person of ordinary skill in the art at the time of the invention that the disclosure of Deaton ( col. 101, ll. 55-67; col. 102, ll. 1-67; col. 103, ll. 1-67; col. 104, ll. 1-67; col. 105, ll. 1-67; col. 106, ll. 1-67; col. 107, ll. 1-67; col. 108, ll. 1-67; col. 109, ll. 1-67; col. 110, ll. 1-67; col. 111, ll. 1-67; and col. 112, ll. 1-20) would have been selected in accordance with "one or more profitability factors associated with a provider of the one or more incentives. . . ." because selection of such features would have provided means to "*utilize marketing programs wherein users of a retail store's services are targeted to attempt to induce the customers to make additional purchases from the retail store. . . .*" (See Deaton (col. 57, ll. 55-65)). Furthermore, the instant invention would have been rendered obvious in view of Deaton, because the

claims of the instant invention suffer from undue breadth.

As per claims 20-28, Deaton shows the method of claim 19 and subsequent base claims depending from claim 19.

Deaton ( The ABSTRACT ; FIG. 26; FIG. 27; FIG. 66; FIG. 48A; FIG. 2A; FIG. 49; FIG. 50; and FIG. 51; col. 3, ll. 51-59; col. 7, ll. 25-35; col. 57, ll. 55-65; col. 119; ll. 25-30; col. 101, ll. 17-13; col. 101, ll. 55-67; col. 102, ll. 1-67; col. 103, ll. 1-67; col. 104, ll. 1-67; col. 105, ll. 1-67; col. 106, ll. 1-67; col. 107, ll. 1-67; col. 108, ll. 1-67; col. 109, ll. 1-67; col. 110, ll. 1-67; col. 111, ll. 1-67; col. 112, ll. 1-20; The ABSTRACT; col. 3, ll. 51-59; col. 119; ll. 25-30; col. 158, Table 3-continued and the whole document) shows the elements and limitations of claims 20-28.

Deaton lacks an explicit recitation of the elements and limitations of claims 20-28 even though Deaton ( The ABSTRACT ; FIG. 26; FIG. 27; FIG. 66; FIG. 48A; FIG. 2A; FIG. 49; FIG. 50; and FIG. 51; col. 3, ll. 51-59; col. 7, ll. 25-35; col. 57, ll. 55-65; col. 119; ll. 25-30; col. 101, ll. 17-13; col. 101, ll. 55-67; col. 102, ll. 1-67; col. 103, ll. 1-67; col. 104, ll. 1-67; col. 105, ll. 1-67; col. 106, ll. 1-67; col. 107, ll. 1-67; col. 108, ll. 1-67; col. 109, ll. 1-67; col. 110, ll. 1-67; col. 111, ll. 1-67; col. 112, ll. 1-20; The ABSTRACT; col. 3, ll. 51-59; col. 119; ll. 25-30; col. 158, Table 3-continued and the whole document) implicitly shows same.

It would have been obvious to a person of ordinary skill in the art that the disclosure of Deaton ( The ABSTRACT ; FIG. 26; FIG. 27; FIG. 66; FIG. 48A; FIG. 2A; FIG. 49; FIG. 50; and FIG. 51; col. 3, ll. 51-59; col. 7, ll. 25-35; col. 57, ll. 55-65; col.

119, ll. 25-30; col. 101, ll. 17-13; col. 101, ll. 55-67; col. 102, ll. 1-67; col. 103, ll. 1-67; col. 104, ll. 1-67; col. 105, ll. 1-67; col. 106, ll. 1-67; col. 107, ll. 1-67; col. 108, ll. 1-67; col. 109, ll. 1-67; col. 110, ll. 1-67; col. 111, ll. 1-67; col. 112, ll. 1-20; The ABSTRACT; col. 3, ll. 51-59; col. 119; ll. 25-30; col. 158, Table 3-continued and the whole document) would have been selected in accordance with the elements and limitations of claims 20-28 because selection of such features would have provided means to "*utilize marketing programs wherein users of a retail store's services are targeted to attempt to induce the customers to make additional purchases from the retail store. . . .*" (See Deaton (col. 57, ll. 55-65)).

Independent claim 29 is rejected for substantially the same reasons as independent claim 19.

Claims 30-38 are rejected for substantially the same reasons as claims 20-28.

## RESPONSE TO ARGUMENTS

4. Applicant's arguments (Amendment B, paper#10, filed 2/12/2004) have been considered but are not persuasive for the following reasons:

Applicant's arguments (Amendment B, paper#10) are moot because of new grounds of rejection presented herein.

## CONCLUSION

5. Any response to this action should be mailed to:

Commissioner for Patents

P. O. Box 1450

Alexandria, VA 22313-1450

Any response to this action may be sent via facsimile to either:

(703) 746-7239 or (703) 872-9314 (for formal communications EXPEDITED PROCEDURE) or (703) 746-7239 (for formal communications marked AFTER-FINAL) or (703) 746-7240 (for informal communications marked PROPOSED or DRAFT).

Hand delivered responses may be brought to:

Seventh floor Receptionist  
Crystal Park V  
2451 Crystal Drive  
Arlington, Virginia.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John L. Young who may be reached via telephone at (703) 305-3801. The examiner can normally be reached Monday through Friday between 8:30 A.M. and 5:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric Stamber, may be reached at (703) 305-8469.

Art Unit: 3622

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-3900.



**JOHN LEONARD YOUNG, ESQ.  
PRIMARY EXAMINER**

John L. Young

Primary Patent Examiner

April 28, 2004